payment is a holder for value. This should be the universal rule. But when a *res* is taken merely as collateral there is no promise and, therefore, no value is given. The instant case is to be sustained on both reason and authority.

WILLS—LAPSED LEGACIES.—The testator, after providing for brothers, sisters and daughter, devised to a niece the residue of his estate, "including lapsed legacies". Under § 29 of the Decedent Estate Law, N. Y., Cons. Laws (1909) c. 13, a legacy to a brother, sister, or child of the testator vests in the descendants of that legatee where such legatee predeceases the testator. *Held,* one judge dissenting, that the testator intended to exclude the remaining children of his brothers and sisters from the will, and that upon their death, the legacy lapsed and went to the niece. *Matter of Helmes* (N. Y. App. Div. 3rd Dept. 1920) 64 N. Y. L. J. 731.

Similar statutes are to be found in many states. Mass., Rev. Laws (1902) c. 135, § 21; Conn., Genl. Stat. (1918) c. 254, § 4945; Ky., Stat. (Carroll, 1915) c. 113, § 4841. They modify the common law rule that a legacy will lapse where the legatee predeceases the testator. See *Hard* v. *Ashley* (1890) 117 N. Y. 606, 616, 23 N. E. 177. This statute applies even where the legatee is dead at the time of the execution of the will. *Lightfoot* v. *Kane* (1915) 170 App. Div. 412, 156 N. Y. Supp. 112. Such statutes have also been commonly construed to cover gifts to a class. *Sloan* v. *Thornton* (1897) 102 Ky. 443, 43 S. W. 415; *Stockbridge, Petitioner* (1888) 145 Mass. 577, 14 N. E. 928; *contra, Trenton Trust and Safe-Deposit Co.* v. *Sibbits* (1901) 62 N. J. Eq. 131, 49 Atl. 530. In bequests to a class, however, where one of the legatees is dead at the time of the will's execution, the child of such deceased legatee does not take under the statute. *Pimel* v. *Betjemann* (1905) 183 N. Y. 194, 76 N. E. 157; *contra, Moses* v. *Allen* (1889) 81 Me. 268, 17 Atl. 66. In the principal case, the lower court, interpreting the statute strictly, claimed that there were no "lapsed legacies" to go into the residue, since by force of the statute, the legacies vest in the deceased legatee's children. The word "lapsed" should not be taken in its technical sense where to do so would defeat the testator's intention. *Van Pretres* v. *Cole* (1880) 73 Mo. 39. Statutes for the prevention of lapses are intended not to defeat the intention of the testator but to supplement it. See *Rudolph* v. *Rudolph* (1904) 207 Ill. 266, 274, 69 N. E. 834. The appellate court in holding that the statute did not change the fact of lapse, but merely its legal consequences gave a more reasonable interpretation. Where the testator supplies an alternative in case of "lapse", there is in truth no lapse at all. The statutory alternative must be construed to apply only in the absence of provision by the testator.